

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF GEORGIA**  
**SAVANNAH DIVISION**

MANUEL RAUL REYO PENA	)	
GARCIA MONTERO,	)	
	)	
a/k/a Manuel Reyes-Pena,	)	
	)	
Petitioner,	)	
	)	Case No. CV408-096
v.	)	
	)	
GOVERNOR OF GEORGIA'S	)	
CAPITOL, <sup>1</sup>	)	
	)	
Respondent.	)	

**REPORT AND RECOMMENDATION**

Manuel Montero, currently incarcerated under a warrant of deportation at USP Leavenworth in Kansas, has filed a *pro se* “petition” purportedly seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1.) He also seeks leave to proceed *in forma pauperis*. (Doc. 2.) The “petition” and accompanying *in forma pauperis* motion constitute

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<sup>1</sup> Montero names the “Governor of Georgia’s Capitol” as respondent, but he states that he is incarcerated at USP Leavenworth in Kansas. (Doc. 1.) A prisoner’s custodian is the proper respondent in a habeas corpus action, not the governor of some distant state. Rumsfield v. Padilla, 542 U.S. 426, 434-35 (2004); Braden v. 30th Judicial Cir. Ct., 410 U.S. 484, 494-95 (1973).

incomprehensible gibberish.<sup>2</sup> This is not the first time Montero has filed such nonsensical claptrap in a federal district court. See Reyes-Pena v. Bush, No. CV505-027 (M.D. Ga. Apr. 22, 2005); Reyes-Pena v. Kennedy, No. CV205-70294 (E.D. Mich. Mar. 14, 2005); Montero v. President of the United States, No. CV103-483 (D.N.H. Feb. 5, 2004); Montero v. Clinton, No. CV203-085 (W.D. Wash. Aug. 6, 2003); Montero v. Clinton, No. CV603-016 (D.N.M. Mar. 19, 2003).

“Section 2241 provides relief for inmates in federal custody in violation of the Constitution or laws or treaties of the United States.” Humphrey v. Outlaw, 2008 WL 2115304, at \*2 (E.D. Ark. May 19, 2008).

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<sup>2</sup> In his grounds for relief, Montero states: “/John Adams, Damn hell buggus, ‘CONGRESSIONAL WRIT’s OF ELECTION 1823-24, THAT GOT SEXY JOHN Q. ADAMS TO THE MISSISSIPPI HOUSE, Aha, ‘PRESIDENT AND VICE PRESIDENT IN AMERICA’s., ‘ARE ELECTED BY CHOSEN ELECTOR, /Not College, ‘Pursuant to Article II, ’ooooo, The Highest Courthouse Ruling 2000, /Case 00-949, Constitutional Challenge by, Plaintiff Gay, ‘June 2000,’ ‘APPLICATION FOR WRIT OF CERTIORARI’s., See Responser’s, CRIMINAL CONSTITUTIONAL INJUCTION’s, /Art II.” (Doc. 1 at 2-3.) On the page’s margins, he states: “ALL ON BOARD, UP TO ELLIS ISLAND THE ROSWELL QUESTION IN 1947,” and “ALL ON BOARD, UP TO ELLIS ISLAND, THE ORIGEN OF THE SPECIES /1863-1963, 000.” (*Id.*)

In the space for listing the type of relief requested, Montero states: “I Manuel Raul Reyo Pena Garcia Montero a Cuban’s, The son of Manuel and Grandson of Sunny Gravylo a Servian, born and Raised by the Bush River In-Law to the Breechess. ASKING THE HON COURTHOUSE IN USA, PURSUANT TO ART II’s, Immediate Order of Constitutional Injuccion Say That UnPresident of the United States.” (*Id.* at 3.) After his signature, he wrote “SHALL YA BURY THE NEW REPUBLIC INTO THE MISSISSISSIPPI SANDS’s, Hail katrina and the Yankeed Cuban Mosquito 69. /Maine Explosion 1898, Dr Red Bull.” (*Id.*)

Finally, in his accompanying *in forma pauperis* application, he states that his only property is a “/SEXY AND LOVELY KITTEN IN THE YARD/.” (Doc. 2 at 3.)

Montero's unintelligible allegations do not state a claim for relief under the statute. Consequently, his petition should be **DENIED**.

**SO REPORTED AND RECOMMENDED** this 27th day of May, 2008.

  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA